

Before the
Federal Communications Commission
Washington, D.C. 20554

MAY 5 2004

In the Matter of

Lifeline and Link-Up

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WC Docket No. 03-109

REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING

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I. INTRODUCTION

1. In this *Report and Order and Further Notice of Proposed Rulemaking*, we modify our rules to improve the effectiveness of the low-income support mechanism, which ensures that quality telecommunications services are available to low-income consumers at just, reasonable, and affordable rates. Since its inception, Lifeline/Link-Up has provided support for telephone service to millions of low-income consumers.¹ Nationally, the telephone penetration rate is 94.7%, in large part due to the success of the Lifeline/Link-Up program and our other universal service programs.² Nevertheless, we believe there is more that we can do to make telephone service affordable for more low-income households. Only one-third of households currently eligible for Lifeline/Link-Up assistance actually subscribe to this program.³ We agree with the Federal-State Joint Board on Universal Service (Joint Board) that the current Lifeline/Link-Up program could be modified to serve the goals of universal service better.⁴

2. Consistent with the Joint Board's recommendation, we expand the federal default eligibility criteria to include an income-based criterion and additional means-tested programs. We adopt federal certification and verification procedures, and require states, under certain circumstances, to establish certification and verification procedures to minimize potential abuse of these programs. To target low-income consumers more effectively, we adopt outreach guidelines for the Lifeline/Link-Up program. We issue a voluntary survey to gather data and information from states regarding the administration of Lifeline/Link-Up programs. Finally, in the *Further Notice of Proposed Rulemaking*, we seek comment on whether the inclusion of a broader income-based criterion in the federal default eligibility criteria would further increase Lifeline/Link-Up subscription rates. The actions we take today will result in a more inclusive and robust Lifeline/Link-Up program, consistent with the statutory goals of maintaining affordability and access of low-income consumers to supported services, while ensuring that support is used for its intended purpose.⁵

II. BACKGROUND

3. Section 254 of the Communications Act of 1934, as amended (the Act),⁶ codified the Commission's and the states' historical commitment to advancing the availability of

¹ See Wireline Competition Bureau, Federal Communications Commission, *Trends in Telephone Service Report*, Tables 20.2, 20.4 (August 2003) (*2003 Trends Report*) (estimating that 6.6 million people paid reduced rates under the Lifeline program in 2002 and 13.7 million people paid reduced charges under Link-Up since 1991).

² See Wireline Competition Bureau, Federal Communications Commission, *Telephone Subscribership in the United States Report*, Table 1 (rel. ___, 2004) (*Telephone Subscribership Report*) (data through Nov. 2003).

³ See Commission Staff Analysis set forth in Appendix K at Table 1.B. These projections were based on March 2000 and March 2002 Current Population Survey of Household data (CPSH data), and adjusted for growth.

⁴ 47 U.S.C. § 254(b), *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 18 FCC Rcd 6589, 6591, para. 1 (2003) (*Recommended Decision*).

⁵ 47 U.S.C. § 254(b).

⁶ Pub. L. No. 104-104, 110 Stat. 56. The Telecommunications Act of 1996 (the 1996 Act) amended the Communications Act of 1934 (the Act).

telecommunications services for all Americans.⁷ Section 254(b) establishes principles upon which the Commission shall base policies for the preservation and advancement of universal service. Among other things, these principles state that consumers in all regions of the Nation, including low-income consumers, should have access to telecommunications and information services that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged in urban areas.⁸ These principles also recognize that ensuring rates are affordable is a national priority.

4. The Lifeline/Link-Up program is one of several universal service support mechanisms that further these goals.⁹ Lifeline provides low-income consumers with discounts of up to \$10.00 off of the monthly cost of telephone service for a single telephone line in their principal residence.¹⁰ Link-Up provides low-income consumers with discounts of up to \$30.00 off of the initial costs of installing telephone service.¹¹ Recognizing the unique needs and characteristics of tribal communities, enhanced Lifeline and Link-Up provides qualifying low-income individuals living on tribal lands with up to \$25.00 in additional discounts off the monthly cost of telephone service and up to \$70.00 more off the initial costs of installing telephone service.¹² Pursuant to section 254(e), only eligible telecommunication carriers (ETCs) designated pursuant to section 214(e)¹³ are eligible to receive Lifeline/Link-Up support.¹⁴

5. Under the Commission's current rules, states and territories have the authority to establish their own Lifeline/Link-Up programs that provide additional support to low-income consumers that incorporate the unique characteristics of each state or territory.¹⁵ For example, in

⁷ 47 U.S.C. § 254.

⁸ 47 U.S.C. § 254(b).

⁹ The Commission adopted Lifeline/Link-Up prior to passage of the 1996 Act pursuant to its general authority under sections 1, 4(i), 201, and 205 of the Act. See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8952-53, para. 329 (1997) (*1997 Universal Service Order*); 47 U.S.C. §§ 151, 154(i), 201, 205.

¹⁰ See 47 C.F.R. § 54.401(a)(2); *1997 Universal Service Order*, 12 FCC Rcd at 8957, para. 341.

¹¹ See 47 C.F.R. § 54.411(a)(1).

¹² See 47 C.F.R. §§ 54.405(a)(4), 54.411(a)(3). Under the Commission's rules, there are four tiers of federal Lifeline support. All eligible subscribers receive Tier 1 support which provides a discount equal to the ETC's subscriber line charge. Tier 2 support provides an additional \$1.75 per month in federal support, available if all relevant state regulatory authorities approve such a reduction. (All fifty states have approved.) Tier 3 of federal support provides one half of the subscriber's state Lifeline support, up to a maximum of \$1.75. Only subscribers residing in a state that has established its own Lifeline/Link-Up program may receive Tier 3 support, assuming that the ETC has all necessary approvals to pass on the full amount of this total support in discounts to subscribers. Tier 4 support provides eligible subscribers living on tribal lands up to an additional \$25 per month towards reducing basic local service rates, but this discount cannot bring the subscriber's cost for basic local service to less than \$1. See 47 C.F.R. § 54.403.

¹³ 47 U.S.C. § 214(e) (setting forth the requirements for ETC designation).

¹⁴ 47 U.S.C. § 254(e).

¹⁵ See 47 C.F.R. §§ 54.409(a), 54.415(a). See also 47 U.S.C. § 254(j) (giving the Commission the authority to maintain pre-1996 Act Lifeline/Link-Up framework).

establishing eligibility criteria, states have the flexibility to consider federal and state-specific public assistance programs with high rates of participation among low-income consumers in the state. State certification procedures and outreach efforts can also take into account existing state laws and budgetary limits. Some states and territories, however, have elected to use the federal criteria as their default standard. These “federal default states” include not only states and territories with their own Lifeline/Link-Up programs that have adopted the federal default criteria, but also states and territories that have not adopted their own Lifeline/Link-Up program. The modifications to the federal default criteria that we adopt in this Order, unless specifically stated otherwise, will affect only federal default states.¹⁶ We request that states notify this Commission if their status as a federal default state changes.

6. On December 21, 2000, the Commission requested that the Joint Board review the Lifeline/Link-Up program for all low-income customers, including a review of the income eligibility criteria.¹⁷ The Joint Board issued its *Recommended Decision* on April 2, 2003.¹⁸ In its *Recommended Decision*, the Joint Board recommended several changes, discussed in more detail below, to improve the effectiveness of the low-income support mechanism.¹⁹ The Commission sought comment on the Joint Board’s *Recommended Decision* regarding modifications to the Lifeline/Link-Up program in a *Notice of Proposed Rulemaking (NPRM)* released on June 9, 2003.²⁰

III. REPORT AND ORDER

A. Eligibility

1. Background

7. Currently, Lifeline/Link-Up eligibility is based on participation in means-tested programs. In order to be eligible for Lifeline/Link-Up assistance under the federal default eligibility criteria for federal default states, a consumer must certify, under penalty of perjury, that he/she participates in at least one of the following federal programs: Medicaid, Food Stamps, Supplemental Security Income (SSI), Federal Public Housing Assistance (Section 8) (FPHA), or the Low Income Home Energy Assistance Program (LIHEAP).²¹ In states that have their own Lifeline/Link-Up programs, the consumer must meet the eligibility criteria established by the

¹⁶ See Appendix G for a list of current federal default states. Except as otherwise specifically provided, the term “State” means the States, the District of Columbia, Territories, and possessions of the United States of America.

¹⁷ See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order, 15 FCC Rcd 25257 (2000) (*Referral Order*).

¹⁸ See generally *Recommended Decision*.

¹⁹ See generally *Recommended Decision*.

²⁰ See *Lifeline and Link-Up*, WC Docket No. 03-109, Notice of Proposed Rulemaking, 18 FCC Rcd 11628 (2003), modified by *Federal-State Board on Universal Service Lifeline and Link-Up*, WC Docket No. 03-109, Erratum, 18 FCC Rcd 16694 (2003) (collectively *NPRM*).

²¹ See 47 C.F.R. §§ 54.409(b), 54.415(b).

state, consistent with sections 54.409 and 54.415 of the Commission's rules.²²

8. In the *Twelfth Report and Order*,²³ the Commission adopted more expansive Lifeline/Link-Up eligibility criteria for low-income consumers living on tribal lands.²⁴ For those consumers, the Commission established an enhanced Lifeline/Link-Up program. In order to qualify for enhanced Lifeline/Link-Up under the federal default eligibility criteria, the consumer must certify, under penalty of perjury, that he/she participates in one of the five programs listed above or any of the following additional federal programs: Bureau of Indian Affairs General Assistance, Tribally-Administered Temporary Assistance for Needy Families (Tribal TANF), Head Start (only for those meeting its income qualifying standard), or the National School Lunch Program's free lunch program.²⁵ In a state with its own enhanced Lifeline/Link-Up program, a consumer living on tribal lands may qualify for Lifeline/Link-Up support by meeting either the eligibility and verification criteria established by the state or the federal default eligibility criteria for the enhanced program.²⁶

9. In the *NPRM*, the Commission sought comment on the Joint Board's recommendation that the Commission expand the federal default eligibility criteria to include an income-based criterion and additional means-tested programs.²⁷ Specifically, the Joint Board recommended that a consumer be eligible for Lifeline/Link-Up when the consumer's income is at or below 135% of the Federal Poverty Guidelines (FPG), or if the consumer participates in Temporary Assistance for Needy Families (TANF) or the National School Lunch's free lunch program (NSL).

2. Discussion

a. Income-based Criteria

10. We adopt the Joint Board's recommendation that a consumer be eligible to participate in Lifeline/Link-Up if the consumer's income is at or below 135% of the FPG.²⁸ We agree with the Joint Board that adding an income-based criterion to the federal default eligibility criteria may increase participation in the Lifeline/Link-Up program.²⁹ This will enable, for example, a family of four whose annual income is at or below \$24,840 to qualify for Lifeline/Link-Up

²² See 47 C.F.R. §§ 54.409(a), 54.415(a).

²³ *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, *Twelfth Report and Order*, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208 (2000) (*Twelfth Report and Order*).

²⁴ See *Twelfth Report and Order*, 15 FCC Rcd at 12245-48, paras. 68-74.

²⁵ See 47 C.F.R. §§ 54.409(c), 54.415(c); *Twelfth Report and Order*, 15 FCC Rcd at 12245, para. 68.

²⁶ See 47 C.F.R. §§ 54.409(c), 54.415(c). See *Twelfth Report and Order*, 15 FCC Rcd at 12247-48, paras. 73-74.

²⁷ See *NPRM*, 18 FCC Rcd at 11628, para. 1.

²⁸ See *Recommended Decision*, 18 FCC Rcd at 6597, para. 15.

²⁹ See *Recommended Decision*, 18 FCC Rcd at 6597, para. 15.

support even if they do not participate in one of the current qualifying assistance programs.³⁰ We have included, in Appendix D, estimated income requirements for various sizes of households at or below 135% of the FPG.³¹ Our staff analysis estimates that adding an income-based criterion of 135% of the FPG could result in approximately 1.17 million to 1.29 million new Lifeline/Link-Up subscribers.³² Of these new Lifeline/Link-Up subscribers, the analysis projects that approximately one in five likely would be new subscribers to telephone service.³³ Therefore, in addition to ensuring that many low-income subscribers may be better able to afford to maintain their existing service, this criterion will enable many low-income subscribers to have service for the first time.³⁴ Adding an income-based standard should thereby promote universal service by increasing subscribership and making rates more affordable for existing low-income subscribers.

11. We agree with the majority of commenters that support adding an income-based standard to the current program-based criteria.³⁵ We also agree with the Joint Board and several commenters that adding an income-based standard likely will capture some low-income consumers who are not eligible for Lifeline/Link-Up because they no longer participate in the qualifying assistance programs.³⁶ In 1996, Congress passed "The Personal Responsibility and Work Opportunity Reconciliation Act,"³⁷ also known by the acronym "PRWORA." PRWORA instituted sweeping changes to several federal public assistance programs, including time limits

³⁰ See 2003 Poverty Guidelines for the 48 Contiguous States and the District of Columbia, 68 Fed. Reg. 6456-58 (2003) (2003 FPG).

³¹ See Appendix D. In order to qualify under this income-based criterion, all income actually received by all members of the household will be counted. This includes salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like. States with their own Lifeline/Link-Up programs may adopt their own definition of income if they have not already done so. See Appendix A (defining "income").

³² See Appendix K at Table 2.F. The staff analysis assumes that all states without an existing income criterion or an income criterion at or below 135% of the FPG adopt the new federal default income-based standard. Accordingly, the estimates presented are likely to represent the upper limit of potential new Lifeline and telephone subscribers and estimated impact on the fund. If some states choose not to adopt the federal income-based criteria, the number of subscribers would be correspondingly lower. This analysis also assumes the following: states that already have an income criterion of 150% of the FPG or higher keep it; there are no other changes to the Lifeline/Link-Up program or the qualifying Lifeline/Link-Up eligibility programs; and states, ETCs, and consumers quickly learn of the program change and rapidly act on that information. See Appendix K at 3, 13.

³³ See Appendix K at Table 2.H.

³⁴ See Appendix K at Table 2.F.

³⁵ See Acorn Comments at 4; BellSouth Comments at 3, Reply Comments at 3; Consumer Coalition Comments at 1; Florida PSC Comments at 3; NASUCA Reply Comments at 5, 9; NCLC Comments at 3, Reply Comments at 4; NFFN Comments at 7; NY Dep't of Public Service Comments at 1-2; OH PUC Comments at 4; Commissioner Wilson PaPUC at Reply Comments 2-3; PULP Comments at 1-2; TX Legal Services Center Comments at 1; TOPC Comments at 5-6; Tribal Telecom Outreach Comments at 1; USCCB Comments at 3-4, 6; UUI Comments at 4.

³⁶ See NASUCA Reply Comments at 12; NCLC Comments at 5-6; NFFN Comments at 7; PULP Comments at 1-2; TX Legal Services Center Comments at 1.

³⁷ Pub.L.No 104-193, 110 Stat. 2105 (Aug. 22, 1996)

and work requirements backed by sanctions. In the *1997 Universal Service Order*, the Commission indicated it would monitor the impact of PRWORA on participation in Lifeline/Link-Up qualifying programs and revise eligibility criteria if the program-based criteria model “becomes an unworkable standard.”³⁸ In the *Twelfth Report and Order*, the Commission also noted it would consider adding an income-based criterion in the future because it might “reach more low-income consumers, including low-income tribal members, than the current method of conditioning eligibility on participation in particular low-income assistance programs.”³⁹ We understand that participation is decreasing in many public assistance programs, including at least one program used to determine eligibility for Lifeline/Link-Up.⁴⁰ At the same time, poverty rates in the U.S. are increasing by the traditional measure. In 2002, 12.1% or 34.6 million people fell below the poverty threshold, compared to 11.3% or 31.1 million people in 2000.⁴¹ At the same time, however, the Census Bureau has published six alternative measures of poverty, none of which appear to show a statistically significant increase in poverty rates between 2001 and 2002.⁴² Regardless of factual differences in the data, broadening eligibility criteria to include an income-based standard at this time should ensure continued participation in Lifeline/Link-Up among low-income households, which, in turn, should increase subscribership to the network. Several commenters also state that individuals who are no longer eligible to receive welfare or benefits under federal assistance programs may still be too poor to afford the cost of local telephone service.⁴³ Adding an income-based standard could increase subscribership among low-income individuals affected by PRWORA. Thus, this action will further the goals of section 254.⁴⁴

³⁸ *1997 Universal Service Order*, 12 FCC Rcd at 8974, para. 374.

³⁹ *Twelfth Report and Order*, 15 FCC Rcd at 12247, para. 72.

⁴⁰ Food Stamps enrollment fell from 25.5 million recipients in FY 1996 to 21.3 million recipients in FY 2003. See <<http://www.fns.usda.gov/pd/fssummary.htm>>.

⁴¹ See U.S. Census Bureau, Current Population Survey, 2002 and 2003, Annual Social and Economic Supplements; U.S. Census Bureau, Current Population Survey, 2001 to 2002, Annual Demographic Supplements; U.S. Census Bureau, Current Population Survey, March 2000 and 2001; see also <<http://www.census.gov/hhes/income/income02/prs03asc.html>> (2003 press briefing); <<http://www.census.gov/hhes/income/income01/prs02asc.html>> (2002 press briefing); <<http://www.census.gov/hhes/income/income00/prs01asc.html>> (2001 press briefing). According to the U.S. Census Bureau, the poverty threshold for a family of four was \$18,392 in 2002, and \$17,603 in 2000. See *id.* Poverty thresholds, updated each year by the Census Bureau, are used mainly for statistical purposes. In contrast, poverty guidelines, issued each year by the Department of Health and Human Services, are a simplification of the poverty thresholds, used for administrative purposes such as determining financial eligibility for certain federal programs. Therefore, Census Bureau poverty thresholds, including those for years 2002 and 2000, differ from the Department of Health and Human Service’s Federal Poverty Guidelines. See generally <<http://aspe.hhs.gov/poverty/02poverty.htm>>, <<http://aspe.hhs.gov/poverty/00poverty.htm>>.

⁴² See U.S. Census Bureau, Press Briefing (Sept. 26, 2003), Chart 12, available at <<http://www.census.gov/hhes/income/income02/prs03asc.html>> (last visited, Mar. 12, 2004).

⁴³ BellSouth Comments at 3; NASUCA Reply Comments at 12; NCLC Comments at 5-6, Reply Comments at 4; OH PUC Comments at 4; PULP Comments at 1-2; TX Legal Services Center Comments at 1.

⁴⁴ 47 U.S.C. § 254.

12. Consistent with the Joint Board recommendation,⁴⁵ we initially set the income-based standard at 135% of the FPG, while we further develop the record on the costs and benefits of adopting a 150% FPG standard.⁴⁶ The Joint Board concluded that an income-based standard at 135% of the FPG struck an appropriate balance between increasing subscribership without significantly overburdening the universal service fund. It noted that most commenters supported adoption of an income-based standard ranging from 125% to 150% of the FPG, and that many other federal welfare programs, and state Lifeline programs, base eligibility on a standard within that range.⁴⁷ We note that our staff analysis projects that if all states were to adopt an income-based standard at or below 135% of the FPG, federal Lifeline expenditures could increase by \$127 to \$140 million over current levels;⁴⁸ in contrast, if we were to adopt an income-based standard at or below 150% of the FPG, federal Lifeline expenditures could increase by \$316 to \$348 million.⁴⁹ We also note that while our staff analysis projects that adoption of an income-based standard at or below 135% of the FPG could result in more than 200,000 households newly subscribing to telephone service, that study also projects no net increase in new subscribers under an income-based standard at or below 150% of the FPG. We recognize that a few commenters are concerned about the potential financial burdens placed on the universal service fund due to increased participation in the Lifeline/Link-Up program,⁵⁰ but we conclude that the benefits of adopting a 135% income-based standard now – namely, adding new low-income subscribers and retaining existing low-income subscribers on the network – outweigh the potential increased costs. In sum, we conclude that adopting a 135% income-based standard at this time represents a reasonable and cautious approach, while we explore further whether to adopt a 150% income standard.⁵¹

⁴⁵ See *Recommended Decision*, 18 FCC Rcd at 6599, para. 17.

⁴⁶ See *infra* para. 56.

⁴⁷ See *Recommended Decision*, 18 FCC Rcd at 6599, para. 17. For example, the following federal programs use an income-based standard as an eligibility criterion: Medicaid (income at or below 133% of the FPG), Food Stamps (gross income at or below 130% of the FPG, net income at or below 100% of the FPG), Low Income Home Energy Assistance Program (LIHEAP) (income at or below 150% of the FPG but not lower than 110% of the FPG or 60% of state median income), National School Lunch program's free lunch program (income at or below 130% of the FPG). We note that these programs may also use other eligibility criteria. States with their own Lifeline/Link-Up programs may establish their own eligibility criteria or may allow carriers to define eligibility. For example, BellSouth Florida, Sprint Tennessee, ALLTEL Texas, and Southwestern Bell Texas have an income-based eligibility criterion of 125% of the FPG. Qwest Idaho, Oregon, and Utah have an income-based eligibility criterion of 133% of the FPG. Verizon Oregon has an income-based eligibility criterion of 135% of the FPG. Pacific Bell California, Verizon Michigan, Sprint Minnesota, Missouri, Nebraska, Nevada, Moapa Valley Nevada, Verizon Nevada, Sprint Pennsylvania, and Verizon Vermont have an income-based eligibility criterion of 150% of the FPG. See <<http://www.lifelinesupport.org>>. We note these programs may also use other eligibility criteria.

⁴⁸ See Appendix K at Table 2.G. As recognized in the staff study, this amount represents the upper bound of the potential increase in funding as it assumes that all states that do not already have an income criterion of at least 135% of the FPG will choose to implement the new federal default standard. Moreover, we recognize that it is difficult to predict with certainty how consumers may behave if program requirements change. See Appendix K at 13.

⁴⁹ See Appendix K at Table 2.G.

⁵⁰ See AT&T Reply Comments at 4; CPUC Comments at 6; Florida PSC Comments at 3; MCI Comments at 2.

⁵¹ See *infra* paras. 56-57.

b. Program-based Criteria

13. We also adopt the Joint Board's recommendation that the Temporary Assistance to Needy Families program (TANF)⁵² and the National School Lunch's free lunch program (NSL)⁵³ be added to the federal default eligibility criteria.⁵⁴ We believe adding these programs is likely to help improve participation in the Lifeline/Link-Up program, and in doing so, would increase telephone subscribership and/or make rates more affordable for low-income households. Additionally, low-income consumers that come into contact with state agencies while enrolling in one public assistance program are often made aware of their eligibility to participate in another public assistance program. Therefore, participation in Lifeline/Link-Up could be increased by adding these public assistance programs to the current program-based criteria because it increases the possibility that low-income consumers could be made aware of Lifeline/Link-Up when they enroll in TANF and NSL and thereby increases or maintains subscribership.⁵⁵

14. Under the Commission's current rules, Tribal TANF is an eligibility criterion for enhanced Lifeline/Link-Up.⁵⁶ The Commission extended Lifeline/Link-Up eligibility criteria to include the Tribal TANF program, as well as Bureau of Indian Affairs General Assistance, Tribal National School Lunch's free lunch program, and Tribal Head Start program (income qualifying standard only) concluding that the "household income thresholds for these newly added programs range[d] from 100-130 percent of the [FPG]" and were therefore "consistent with the [income thresholds of those] programs included in our current federal default list."⁵⁷ Adding TANF to the current list of eligibility criteria may permit more low-income individuals, not just those living on tribal lands, to qualify for Lifeline/Link-Up support, thereby potentially increasing telephone subscribership and making rates more affordable for existing low-income subscribers.⁵⁸ Although 5.1 million recipients currently participate in TANF,⁵⁹ like the Joint

⁵² TANF replaced the Aid to Families with Dependent Children program (AFDC). TANF is codified at 42 U.S.C. §§ 600 *et seq.*

⁵³ NSL is codified at 42 U.S.C. §§ 1751 *et seq.*

⁵⁴ See *Recommended Decision*, 18 FCC Rcd at 6601, para. 20.

⁵⁵ See *Consumer Coalition Comments* at 2.

⁵⁶ In Tribal TANF, participation is only open to those living on tribal lands, and tribes implement their own TANF programs with eligibility criteria and benefits that vary by tribe rather than by state. See <<http://www.acf.hhs.gov/programs/dts/guidettf01.htm>>.

⁵⁷ *Twelfth Report and Order*, 15 FCC Rcd at 12245, para. 68. We note that: (1) income eligibility criteria in the programs listed may have changed in the four years since the *Twelfth Report and Order* was released and (2) because Tribal TANF eligibility criteria varies by tribe, income eligibility criteria in certain Tribal TANF programs may not range from 100-130% of the FPG.

⁵⁸ See *NCLC Comments* at 3-4.

⁵⁹ In fiscal year 2002, there were approximately 5.1 million recipients receiving TANF support. See HHS/ACF/Office of Family Assistance/Division of Data Collection and Analysis, ACF-3637, Statistical Report on Recipients under Public Assistance (OMB Approval No. 0970-008), ACF-198, Emergency TANF Data Report (0970-0164), ACF-199, TANF Data Report (0970-0199); <<http://www.acf.dhhs.gov/news/stats/2002tanfrecipients.htm>>.

Board, we cannot project how many additional persons may become eligible for Lifeline/Link-Up under this new criterion because many low-income households participate in more than one assistance program.⁶⁰ Nevertheless, we share the Joint Board's belief that extending Lifeline/Link-Up benefits to TANF participants will promote the goals of universal service.

15. We note that, in the *1997 Universal Service Order*, the Commission rejected a proposal to add TANF's predecessor, Aid to Families with Dependent Children (AFDC), to the list of qualifying Lifeline/Link-Up programs.⁶¹ At the time, the Commission was concerned about the impact of PRWORA on that particular program.⁶² Although TANF participation rates have decreased since fiscal year 1996 and the implementation of PRWORA, participation rates remain high.⁶³ Accordingly, adding this particular program to the federal default eligibility criteria may still potentially affect significant numbers of low-income consumers.

16. We agree with the Joint Board that one benefit of adding TANF is the broad discretion that states are given to establish eligibility standards for each state's respective TANF program.⁶⁴ This broad discretion enables states to tailor the TANF program to meet their constituents' needs. Therefore, we agree with the Joint Board and most commenters that adding TANF as an eligibility criterion for Lifeline/Link-Up will help target the program to appropriate low-income households.⁶⁵ Another advantage of adding TANF is that verification of Lifeline/Link-Up eligibility would simply involve checking TANF program records. We agree with NASUCA that monitoring participation in TANF is no more difficult than other programs.⁶⁶

17. We agree with the Joint Board that adding NSL's free lunch program to the current list of federal default eligibility criteria may permit more low-income individuals, not just those living on tribal lands, to qualify for Lifeline/Link-Up support, thereby increasing subscribership and/or making rates more affordable for low-income households.⁶⁷ Under the Commission's current rules, Tribal NSL is an eligibility criterion for enhanced Lifeline/Link-Up on tribal lands.⁶⁸ In general, NSL's eligibility criteria are the same as for Tribal NSL.⁶⁹ To be eligible for

⁶⁰ See *Recommended Decision*, 18 FCC Rcd at 6601, para. 21.

⁶¹ See *1997 Universal Service Order*, 12 FCC Rcd at 8974, para. 374.

⁶² See *id.*

⁶³ See *infra* note 198.

⁶⁴ See *Recommended Decision*, 18 FCC Rcd at 6601, para. 22. We note that each state's TANF program is subject to modification, as are all the means-tested programs that comprise Lifeline/Link-Up's program-based criteria.

⁶⁵ See Consumer Coalition Comments at 1-2; Florida PSC Comments at 4; NCLC Comments at 3-4; NASUCA Reply Comments at 16; NY Dep't of Public Service Comments at 1-2; PaPUC Reply Comments at 3; Commissioner Wilson PaPUC Reply Comments at 4-5; Tribal Telecom Outreach Comments at 1; USCCB Comments at 8-9.

⁶⁶ See NASUCA Reply Comments at 16

⁶⁷ See *Recommended Decision*, 18 FCC Rcd at 6602, para. 23.

⁶⁸ See 47 C.F.R. § 54.409(c)

⁶⁹ In Tribal NSL, participation is only open to children living on tribal lands, and children living on tribal lands are automatically eligible if they or their household receives assistance under the Food Distribution Program on Indian Reservations. See generally <<http://www.fns.usda.gov/cnd/lunch/default.htm>>.

NSL's free lunch program, the household income must be at or below 130% of the FPG, which is \$23,920 for a family of four.⁷⁰ Children are automatically eligible for free school meals if their household receives Food Stamps, benefits under the Food Distribution Program on Indian Reservations or, in most cases, benefits under the TANF program.⁷¹ There were approximately 13.7 million children enrolled in NSL's free lunch program in fiscal year 2003.⁷² As with TANF, however, it is difficult to project how many additional persons may become eligible for Lifeline/Link-Up by adopting NSL because many low-income households typically participate in more than one assistance program once they meet the qualifying criteria.⁷³ We are not aware of any data on the total number of households in which NSL participants reside, because more than one NSL participant may reside in a single household. Nevertheless, we agree with the Joint Board that adding NSL as an eligibility criterion could increase telephone subscribership and/or make rates more affordable for low-income households.

18. There is significant support in the record for adding NSL's free lunch program to the federal default eligibility criteria.⁷⁴ We agree with NCLC that adding NSL may improve telephone penetration among low-income subscribers because it may capture many low-income households that may not participate in other Lifeline/Link-Up qualifying public-assistance programs.⁷⁵ According to NCLC, many households do not feel that children participating in NSL carries the same social stigma as participation in programs whose aim is assistance for adults.⁷⁶ Also, adding NSL's free lunch program is consistent with the Commission's determination in the *Twelfth Report and Order* that eligibility for enhanced Lifeline/Link-Up should be limited to those qualifying for free lunch from NSL.⁷⁷ We note that participation in the NSL program is increasing, unlike other assistance programs where PRWORA may have prompted decreased enrollment.⁷⁸ It is also easy to verify eligibility under this criterion because it would simply involve checking NSL program records. We note that in the *1997 Universal Service Order*, the Commission found that "in the interest of administrative ease and avoiding fraud, waste, and abuse, the named subscriber to the local telecommunications service must participate in [the] program[] to qualify for Lifeline."⁷⁹ Although the child is the named

⁷⁰ See 2003 FPG, 68 Fed.Reg. at 6456-58. We note that the NSL program is subject to modification, as are all the means-tested programs that comprise Lifeline/Link-Up's program-based criteria.

⁷¹ See <<http://www.fns.usda.gov/cnd/About/faqs.htm>>.

⁷² See <<http://www.fns.usda.gov/pd/slsummar.htm>>.

⁷³ See *Recommended Decision*, 18 FCC Rcd at 6602, para. 23.

⁷⁴ These commenters supported adding NSL to the federal default eligibility criteria. See Consumer Coalition Comments at 2; Florida PSC Comments at 4; NCLC Comments at 3-5; NASUCA Reply Comments at 16-17; NY Dep't of Public Service Comments at 1-2; OK Corporation Commission Comments at 3; Commissioner Wilson PaPUC Reply Comments at 4-5; Tribal Telecom Outreach Comments at 1; USCCB Comments at 8-9.

⁷⁵ See NCLC Comments at 3-5.

⁷⁶ See NCLC Comments at 5.

⁷⁷ See *Twelfth Report and Order*, 15 FCC Rcd at 12245, para. 68.

⁷⁸ For example, in 1996, there were 12.7 million children enrolled in NSL's free lunch program. In 2003, there were 13.7 million children enrolled in NSL's free lunch program. See <<http://www.fns.usda.gov/pd/slsummar.htm>>.

⁷⁹ See *1997 Universal Service Order*, 12 FCC Rcd at 8974, para. 374.

participant in the NSL program, it is the household's income that qualifies the child for participation in the program. No commenters have brought to our attention any evidence of problems with its use in the enhanced Lifeline/Link-Up federal default eligibility criteria for those living on tribal lands. Accordingly, we believe that adding NSL will help to target Lifeline/Link-Up support to the appropriate low-income households.

B. Duration of an Individual's Eligibility for Lifeline/Link-Up

1. Background

19. Only qualifying low-income consumers may participate in the Lifeline/Link-Up program.⁸⁰ Therefore, if a consumer ceases to meet any of the eligibility criteria, he or she may no longer receive the benefits of Lifeline/Link-Up. The Joint Board was concerned that an automatic termination process might result in erroneous disconnection of service for certain consumers. Accordingly, the Joint Board recommended that the Commission seek comment on establishing an appeals process for the termination of Lifeline benefits and determine whether 60 days is an appropriate time period for a consumer to appeal.⁸¹ In the *NPRM*, the Commission sought comment on this proposal and asked commenters to provide more information on how an appeals process could work.⁸²

2. Discussion

20. We agree with the Joint Board and several commenters that consumers should be given a period of time in which to show continued eligibility for Lifeline.⁸³ As described below, dispute resolution procedures are necessary to allow consumers to demonstrate continued eligibility. Moreover, such a timeframe will provide Lifeline customers, who may not be aware of a change to their eligibility status, a period of time in which to transition to the full cost of non-Lifeline service should they be found to be ineligible. This transitional period will reduce the likelihood that such customers would be subsequently disconnected from the network. Therefore, an appeal and transition period will promote the goals of section 254.⁸⁴ Moreover, allowing Lifeline benefits to continue prior to a final decision to terminate enrollment should not burden the fund excessively, while providing administrative stability.

21. We recognize that some states may have existing dispute resolution procedures between telephone companies and consumers governing termination of telephone service that could apply to termination of Lifeline benefits. For example, the Pennsylvania Public Utility Commission (PaPUC) asserts that "Pennsylvania carriers would treat an appeal regarding termination of Lifeline service as a 'dispute' and would follow the PaPUC procedural rules

⁸⁰ See 47 C.F.R. § 54.409(b).

⁸¹ See *Recommended Decision*, 18 FCC Rcd at 6605, paras. 29, 30.

⁸² See *NPRM*, 18 FCC Rcd at 11629, para. 2.

⁸³ See *Recommended Decision*, 18 FCC Rcd at 6604, para. 29; NASUCA Reply Comments at 30; NCLC Comments at 13-15; OH PUC Comments at 8.

⁸⁴ See 47 U.S.C. §§ 254(b)(1), 254(b)(3).

regarding the resolution of disputes[.]”⁸⁵ The PaPUC explains that termination of service would be stayed pending resolution of the dispute.⁸⁶ Accordingly, in such a state, consumers would have an opportunity to dispute Lifeline termination, and there would be no need for the ETC to follow the federal default procedures, as described below.⁸⁷ Therefore, where a state maintains its own procedures that would require, at a minimum, written customer notification of impending termination of Lifeline benefits, similar to the federal default requirements, that state will retain the flexibility to develop its own appeals process. Moreover, we agree with the PaPUC and the Joint Board that preempting a state’s existing appeals process could result in customer confusion and unnecessary expense for the carrier. States should make their own determination as to whether the state’s existing laws could apply to termination of Lifeline benefits.

22. In states that lack dispute resolution procedures applicable to Lifeline termination, we adopt the Joint Board’s recommendation and require ETCs that have a reasonable basis to believe that consumers no longer qualify for Lifeline⁸⁸ to notify consumers of their impending termination of Lifeline benefits and implement a 60-day period of time in which to demonstrate continued eligibility.⁸⁹ For those states, we adopt the following federal default procedures. ETCs in such states will be required to notify consumers of their impending termination of Lifeline benefits by sending a termination of Lifeline benefits notice in a letter separate from the consumer’s monthly bill. If a consumer receives such a termination notice, the consumer would have up to 60 days from the date of the termination letter in which to demonstrate his or her continued eligibility before Lifeline support is discontinued. For example, a consumer who enrolled in Lifeline because he or she participated in LIHEAP may nevertheless qualify for Lifeline after discontinuing participation in LIHEAP under a different program-based or income-based criterion. Consumers should be given a period of time in which to make such a showing of continued eligibility if they believe they have received a termination letter in error. The 60-day time period also should ensure that consumers have ample notice to make arrangements to pay the full cost of local service should they wish to continue telephone service after termination of Lifeline benefits.⁹⁰ This 60-day time period thus furthers the goal of section 254 to provide access to telecommunications services for low-income consumers.⁹¹ A consumer who appeals must present proof of continued eligibility to the carrier consistent with his or her state’s

⁸⁵ See PaPUC Reply Comments at 4 (citing 52 Pa. Code §§ 64.131-134, 64.141-142). See also Commissioner Wilson PaPUC Reply Comments at 5-6.

⁸⁶ See PaPUC Reply Comments at 4 (citing 52 Pa. Code § 64.133). See also Commissioner Wilson PaPUC Reply Comments at 5-6.

⁸⁷ See *infra* para. 22.

⁸⁸ An ETC may have a reasonable basis to believe that a consumer no longer qualifies for Lifeline if, for example, the state alerts the ETC that a particular consumer no longer participates in a Lifeline-qualifying program or the consumer fails to provide information in response to a request for documentation by the ETC.

⁸⁹ Where ETCs provide wholesale Lifeline rates to non-ETC resellers that provide discounted service to low-income consumers in states that lack dispute resolution procedures, the non-ETC reseller must comply with these requirements.

⁹⁰ Commenters also agreed that 60 days is a reasonable amount of time. See NASUCA Reply Comments at 30; NCLC Comments at 14, OH PUC Comments at 8.

⁹¹ See generally 47 U.S.C. § 254.

verification requirements or federal verification requirements, if relevant, as modified in the Certification and Verification Procedures section below.⁹² This procedure is only required when the carrier has initiated termination of benefits. This 60-day period of time is not necessary when the Lifeline subscriber has notified the carrier that he or she is no longer eligible.⁹³ Presumably such subscribers will be aware of their impending termination of benefits and will be able to budget their resources accordingly.

C. Certification and Verification Procedures

1. Background

23. Certification and verification are the processes by which eligible consumers establish their qualification for Lifeline/Link-Up. Certification occurs at the time an individual is applying to enroll in Lifeline/Link-Up, while verification occurs on a periodic basis after the subscriber has already been certified. Currently, in a state that has instituted its own Lifeline/Link-Up program, an individual must follow that state's certification and verification procedures, if any, in order to enroll and continue to participate in that state's Lifeline/Link-Up program.⁹⁴ In federal default states, an individual must self-certify to his/her carrier, under penalty of perjury, that he/she is enrolled in a qualifying assistance program.⁹⁵ Although there is currently no verification requirement for federal default states, Lifeline subscribers are required to notify their carriers when they cease to participate in a qualifying program.⁹⁶

24. In its *Recommended Decision*, the Joint Board recommended that the Commission encourage all states, including federal default states, to adopt automatic enrollment as a means of certifying that consumers are eligible for Lifeline/Link-Up.⁹⁷ They also recommended that consumers eligible for Lifeline/Link-Up under an income-based criterion be required to present documentation of income eligibility prior to being enrolled in the program and to verify continued eligibility under any criterion. Finally, the Joint Board recommended adoption of a rule requiring Lifeline/Link-Up applicants who qualify under the income-based criterion to certify, under penalty of perjury, the number of individuals in their household.⁹⁸

⁹² See *infra* paras 28-35.

⁹³ See 47 C.F.R. § 54.409(b).

⁹⁴ 47 C.F.R. § 54.409(a).

⁹⁵ 47 C.F.R. § 54.409(b).

⁹⁶ *Id.*

⁹⁷ The definition of automatic enrollment in the Lifeline/Link-Up context is an "electronic interface between a state agency and the carrier that allows low-income individuals to automatically enroll in Lifeline/Link-Up following enrollment in a qualifying public assistance program." *Recommended Decision*, 18 FCC Rcd at 6608, para. 38.

⁹⁸ *Recommended Decision*, 18 FCC Rcd at 6610, para. 44.

2. Discussion

a. Automatic Enrollment

25. We agree with the Joint Board and encourage all states, including federal default states, to adopt automatic enrollment as a means of certifying that consumers are eligible for Lifeline/Link-Up.⁹⁹ In its *Recommended Decision*, the Joint Board observed that participation rates for Lifeline/Link-Up increased in states that employed automatic enrollment, aggressive outreach, and intrastate multi-agency cooperation.¹⁰⁰ In particular, the Joint Board highlighted three states that have adopted some form of Lifeline/Link-Up automatic enrollment.¹⁰¹ In two states, an affirmative act by the participant, such as authorization to release qualifying information and submission of letter indicating participation in the qualifying program, is needed to secure enrollment in Lifeline/Link-Up.¹⁰² In a third state, the state automatically enrolls the consumer in Lifeline/Link-Up at the time of enrollment in a qualifying program, but offers the consumer an opt-out provision to cancel participation in Lifeline/Link-Up.¹⁰³ Because we agree with the Joint Board that automatic enrollment may facilitate participation in Lifeline/Link-Up, we adopt the Joint Board's recommendation to encourage states to implement such measures.

26. We decline, however, to require states to adopt automatic enrollment at this time.¹⁰⁴ Instead, we encourage those states that currently do not employ automatic enrollment to consider states that operate automatic enrollment as a model for future implementation.¹⁰⁵ As the Joint Board noted, implementation of automatic enrollment could impose significant administrative, technological, and financial burdens on states and ETCs.¹⁰⁶ Although we recognize the benefits of automatic enrollment, we agree with the Joint Board that we should not force states that may be unable to afford to implement automatic enrollment to do so.¹⁰⁷ We also recognize arguments that requiring automatic enrollment may deter ETCs from participating in the Lifeline/Link-Up

⁹⁹ *Id.* at 6607-08, para. 38.

¹⁰⁰ *Id.* at 6608, para. 39.

¹⁰¹ *See id.* at 6608, 6625-26, paras. 39-40, Appendix E.

¹⁰² *Recommended Decision*, 18 FCC Rcd at 6625-26, Appendix E. Massachusetts and North Dakota require an affirmative action by the enrollee. *Id.*

¹⁰³ *Id.* at 6626, Appendix E. New York employed a confidentiality agreement between the state agency and the carrier to facilitate the release of qualifying information and safeguard consumer privacy rights.

¹⁰⁴ *See, e.g.*, ACORN Comments at 4; NASUCA Comments at 17-20; NCLC Comments at 8; NCLC Reply Comments at 4-5; NFFN Comments at 8, OK Corporation Commission Comments at 4; USCCB Comments at 9.

¹⁰⁵ For example, in Texas, plans are underway to implement the state legislature's determination that all utility discount plans should be administered by a third party, the Low Income Discount Administrator (LIDA). *See* NASUCA Reply Comments at 18-19; *see also* <<http://www.puc.state.tx.us/openmeet/openmeetarc/2003/121803.pdf>>. It is proposed that the LIDA will interface with state agencies and automatically enroll consumers that are eligible for utility discounts in various assistance programs, including Lifeline.

¹⁰⁶ *See Recommended Decision*, 18 FCC Rcd 6608, para. 40.

¹⁰⁷ Massachusetts, Texas, New York, New Jersey, Nevada, and Ohio are examples of states utilizing automatic enrollment in their Lifeline/Link-Up programs.

program because of the technical requirements associated with interfacing with government agencies or third party administrators.¹⁰⁸

b. Certification of Program-based Eligibility

27. We agree with the Joint Board that the current certification procedures for program-based qualification are sufficient.¹⁰⁹ Current rules require self-certification, under penalty of perjury, for the federal default states,¹¹⁰ and allow states operating their own Lifeline/Link-Up programs to devise more strict measures as they deem appropriate.¹¹¹ We agree with the Joint Board that the ease of self-certification encourages eligible consumers to participate in Lifeline/Link-Up.¹¹² In addition, self-certification imposes minimal burdens on consumers. Finally, we agree with the Joint Board that participation in need-based programs is easily verified.¹¹³ Accordingly, we conclude, consistent with the views of the Joint Board, that certification of qualified program participation, under penalty of perjury, serves as an effective disincentive to abuse the system at this time.¹¹⁴

c. Certification of Income-based Eligibility

28. We adopt the Joint Board's recommendation to require all states, including federal default states, to adopt certification procedures to document income-based eligibility for Lifeline/Link-Up enrollment.¹¹⁵ Because it is easier to verify qualifying program enrollment, we share the Joint Board's concerns that there may be a greater potential for fraud and abuse when an individual self-certifies his/her income eligibility.¹¹⁶ We agree with the many commenters that requiring documentation of income eligibility should protect against waste, fraud, and abuse and ensure that only qualified individuals receive Lifeline/Link-Up assistance.¹¹⁷ Some commenters, however, contend that self-certification of income, under penalty of perjury, at the enrollment stage is the most cost-effective method to deter abuse of the program.¹¹⁸ The Florida PSC, on the other hand, notes that California's Lifeline program, which utilizes self-certification of income-based eligibility, appears to have more households receiving the Lifeline discount

¹⁰⁸ See e.g., AT&T Reply Comments at 4; BellSouth Comments at 4-5; Verizon Comments at 8-10.

¹⁰⁹ See *Recommended Decision*, 18 FCC Rcd at 6606, para. 32. See also Consumer Coalition Comments at 1-3.

¹¹⁰ 47 C.F.R. § 54.409(b).

¹¹¹ 47 C.F.R. § 54.409(a).

¹¹² See *Recommended Decision*, 18 FCC Rcd at 6606, paras. 32-33.

¹¹³ See *id.* at 6606, para. 33.

¹¹⁴ See *id.*, see also 47 C.F.R. § 54.409(b).

¹¹⁵ See *Recommended Decision*, 18 FCC Rcd at 6606-07, para. 34.

¹¹⁶ See *id.* at 6606, para. 33; see also BellSouth Comments at 6; MCI Comments at 3; NCLC Comments at 4, Reply Comments at 4.

¹¹⁷ See BellSouth Comments at 6; FPSC Comments at 2, 4; MCI Comments at 3; NCLC Comments at 4, Reply Comments at 4.

¹¹⁸ See, e.g. ACORN Comments at 5; Consumer Coalition Comments at 2-3; NASUCA Reply Comments at 21; USCCB Comments at 7; TX OPUC Comments at 3-4, Reply Comments at 4-5.

than the Current Population Survey of Households data would indicate are eligible for the discount.¹¹⁹ We do not agree with these commenters that argue income certification from another means-tested program should be suitable documentation,¹²⁰ because it could be difficult to verify that the means-tested program utilizes the same income eligibility threshold. Therefore, because self-certification of income presents additional vulnerabilities to the Lifeline/Link-Up program, we agree with the Joint Board and several commenters that certification of income-based eligibility must be accompanied by supporting documentation.¹²¹

29. We agree with the Joint Board that states that operate their own Lifeline/Link-Up programs should maintain the flexibility to develop their own certification procedures other than self-certification, including acceptable documentation to certify consumer eligibility under an income-based criterion, and to determine the certifying entity, whether it is a state agency or an ETC.¹²² This flexibility will permit states to develop certification procedures that best accommodate their own Lifeline participants based on the available resources of ETCs and state commissions, each state's eligibility criteria, and local conditions. When developing their certification procedures, we remind states that eligible consumers living on tribal lands may qualify for Lifeline support even if they do not satisfy that state's eligibility criteria.¹²³ In addition, ETCs must be able to document that they are complying with state regulations and recordkeeping requirements.

30. For federal default states, we adopt rules reflecting the Joint Board's recommendation that consumers must provide documentation of income eligibility at enrollment.¹²⁴ Specifically, we agree with the Joint Board's recommendation that the prior year's state, federal, or tribal tax return, current income statement from an employer or paycheck stub, a Social Security statement of benefits, a Veterans Administration statement of benefits, a retirement/pension statement of benefits, an Unemployment/Workmen's Compensation statement of benefits, federal or tribal notice letter of participation in Bureau of Indian Affairs General Assistance, a divorce decree, or

¹¹⁹ See Florida PCS Comments at 4-5. See also *Recommended Decision*, 18 FCC Rcd at 6650, 6668, Table 1.A, Appendix F. The Current Population Survey of Households is a monthly survey of households conducted by the Bureau of Census for the Bureau of Labor Statistics. It provides a comprehensive body of data on the labor force, employment, unemployment, and persons not in the labor force. See <<http://www.bls.gov/cps>>.

¹²⁰ See NFFN Comments at 4; PULP Comments at 2.

¹²¹ See *Recommended Decision*, 18 FCC Rcd at 6606-07, para. 34; Bell South Comments at 5-6; MCI Comments at 3-4; FPSC Comments at 4; NY Department of Public Service Comments at 1-2.

¹²² See *Recommended Decision*, 18 FCC Rcd at 6606-07, para. 34.

¹²³ 47 C.F.R. § 54.409(c) (consumers living on a reservation may qualify for Tiers One, Two and Four of Lifeline support if they satisfy the criteria in 54.409(c) or (d) even if they do not satisfy state eligibility criteria); see also *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved And Underserved Areas, Including Tribal and Insular Areas; Commonwealth of Northern Mariana Islands*, CC Docket No. 96-45, Twenty-Fifth Order On Reconsideration, Report and Order, Order, and Further Notice Of Proposed Rulemaking, 18 FCC Rcd 10958, 10970-71, para. 24 (2003).

¹²⁴ See *Recommended Decision*, 18 FCC Rcd at 6607, para. 35.

child support document serve as the types of documents acceptable for income verification.¹²⁵ We conclude that if a consumer chooses to proffer any document other than a previous year's tribal, federal, or state income tax return as evidence of income, such as current pay stubs, the consumer must present three consecutive months worth of the same type of statements within that calendar year. Three consecutive months of income statements represent one quarter of the calendar year and better substantiate the yearly stated income, without overly burdening consumers.

31. For those states governed by the federal default Lifeline/Link-Up rules, we require an officer of the ETC enrolling the consumer in Lifeline/Link-Up to certify, under penalty of perjury, that the ETC has procedures in place to review income documentation and that, to the best of his or her knowledge, the company was presented with documentation that the consumer's household income is at or below 135% of the FPG. Some commenters oppose certification procedures for income-based eligibility because, they insist, such procedures would be overly burdensome to ETCs.¹²⁶ AT&T argues that ETC employees are not trained to review and interpret complex government forms, such as tax forms, W-2 statements, or pay stubs.¹²⁷ The rules we adopt today, however, do not require difficult computations or interpretations; rather, they require the ETC to compare the annual income represented in the provided documentation and the number of individuals in the household to a FPG chart posted on the Universal Service Administrative Company's (USAC's) website.¹²⁸ Moreover, our rules do not require ETCs to retain the consumer's corroborating documentation. ETCs need only retain records of their self-certifications and those made by the applicant.¹²⁹ Where states operate their own Lifeline/Link-Up programs, an officer of the ETC must certify that the ETC is in compliance with state Lifeline/Link-Up income certification procedures and that, to the best of his or her knowledge, documentation of income was presented.

32. Finally, all consumers in all states qualifying under an income-based criterion must self-certify their eligibility to participate. Consumers must make this self-certification under penalty of perjury and must also present all required documentation. Specifically, consumers must self-certify, under penalty of perjury, that the presented documentation accurately represents their annual household income. Moreover, we adopt the Joint Board's recommendation that Lifeline/Link-Up applicants in all states qualifying under an income-based criterion should be required to self-certify, under penalty of perjury, the number of individuals in

¹²⁵ *Id.* at 6607, paras. 35-36. We note that if a consumer only provides one form of documentation, as we require here, that may not represent the household's complete income as defined in our rules. See *infra* Appendix A, 47 C.F.R. § 54.400(f). Accordingly, we require that the consumer self-certify that the documentation accurately represents the consumer's total household income. See *infra* para. 32.

¹²⁶ See AT&T Reply Comments at 5; OK Corporation Commission Comments at 3.

¹²⁷ AT&T Reply Comments at 5.

¹²⁸ If an applicant presents three months of payment statements, the carrier enrolling the consumer will have to multiply by four, the sum of the payments received in three months, to determine the applicant's annual income. See *infra* Appendix D for estimated income requirements for various sizes of households at or below 135% of the FPG.

¹²⁹ See 47 C.F.R. §§ 54.407(c), 54.413(c). See also *infra* paras. 37-38.

their households.¹³⁰ Because the Federal Poverty Guidelines change depending upon the number of individuals in a household, this information is necessary to determine eligibility.

d. Verification of Continued Eligibility Under Program-based and Income-based Eligibility

33. We adopt the Joint Board's recommendation that all states, including federal default states, be required to establish procedures to verify consumers' continued eligibility for the Lifeline/Link-Up program under both program and income-based eligibility criteria.¹³¹ Verification procedures could include random beneficiary audits, periodic submission of documents, or annual self-certification. We agree with those commenters that assert that verification of continued eligibility should ensure that the low-income support mechanism is updated, accurate, and carefully targeted to provide support only to eligible consumers.¹³² We disagree with other commenters that argue that these benefits do not outweigh the burden associated with a verification requirement.¹³³ We agree with the Joint Board that verification is an effective way to prevent fraud and abuse and ensure that only eligible consumers receive benefits.

34. We also adopt the Joint Board's recommendation to allow states that administer their own Lifeline/Link-Up programs the flexibility to design and implement their own verification procedures to validate consumers' continued eligibility.¹³⁴ We note that several states already engage in verification of continued eligibility for Lifeline/Link-Up. For example, in some states, the ETC is responsible for verifying the consumer's continued eligibility,¹³⁵ while other states require their state agencies to devise procedures for eligibility verification.¹³⁶ Another state establishes eligibility verification procedures that involve state agency and carrier participation.¹³⁷ This flexibility will permit states to develop verification procedures that best accommodate their own Lifeline participants based on the available resources of ETCs and state

¹³⁰ See *Recommended Decision*, 18 FCC Rcd at 6607, para. 37.

¹³¹ *Recommended Decision*, 18 FCC Rcd at 6609, para. 41.

¹³² See, e.g. MCI Comments at 3-4; Florida PSC Comments at 5; NASCUA Reply Comments at 17.

¹³³ See, e.g. AT&T Comments at 7, Reply Comments at 5; Verizon Comments at 6-7.

¹³⁴ See *Recommended Decision*, 18 FCC Rcd at 6609, para. 41.

¹³⁵ In Ohio, carriers perform verification audits to substantiate consumers' continued eligibility. See Ohio PUC Comments at 7. In addition, the Ohio PUC provides that carriers may use W-2s, pay-stubs, or employer verification as means of income verification. See *Elective Alternative Regulatory Framework for Incumbent Local Exchange Companies*, Entry on Rehearing, Case No. 00-1532-TP-ALT, 2002WL1058559 (Ohio PUC) (April 25, 2002).

¹³⁶ For program-based verification of continued eligibility, the North Dakota Department of Human Services sends an annual, qualifying certificate for Lifeline/Link-Up support to consumers, which must be returned to the local telephone company. See *Recommended Decision*, 18 FCC Rcd at 6626, Appendix E.

¹³⁷ In Pennsylvania, most ETCs use the Pennsylvania Department of Revenue database to verify income. See PaPUC Reply Comments at 5-6. Another form of verification of continued eligibility used in North Dakota involves an annual list sent to the telephone companies by North Dakota Department of Human Services identifying eligible participants, which the company uses to update its eligible subscribers. See *Recommended Decision*, 18 FCC Rcd at 6626, Appendix E.

commissions, each state's eligibility criteria, and local conditions. We also note that eligible consumers living on tribal lands may qualify for Lifeline support even if they do not satisfy that state's eligibility criteria.¹³⁸ In addition, ETCs must be able to document that they are complying with state regulations and verification requirements.

35. With respect to federal default states, we adopt the Joint Board's recommendation to require ETCs to verify annually the continued eligibility of a statistically valid sample of their Lifeline subscribers.¹³⁹ ETCs are free to verify directly with a state that particular subscribers continue to be eligible by virtue of participation in a qualifying program or income level. Alternatively, to the extent ETCs cannot obtain the necessary information from the state, they may survey the subscriber directly and provide the results of the sample to USAC.¹⁴⁰ Subscribers who are subject to this verification and qualify under program-based eligibility criteria must prove their continued eligibility by presenting in person or sending a copy of their Medicaid card or other Lifeline-qualifying public assistance card and self-certifying, under penalty of perjury, that they continue to participate in the Lifeline-qualifying public assistance program. Subscribers who are subject to this verification and qualify under the income-based eligibility criteria must prove their continued eligibility by presenting current documentation consistent with the federal default certification process, as detailed above.¹⁴¹ These subscribers must also self-certify, under penalty of perjury, the number of individuals in their household and that the documentation presented accurately represents their annual household income. As with certification of income-based eligibility, ETCs need not retain documentation of income; however, an officer of the ETC must certify, under penalty of perjury, that the ETC has income verification procedures in place and that, to the best of his or her knowledge, the company was presented with corroborating documentation and retain these records.¹⁴²

36. In addition, we agree with the Joint Board that states should develop on-line verification systems.¹⁴³ Several commenters highlight the effectiveness and efficiency of verifying eligibility via on-line databases.¹⁴⁴ We agree with the Joint Board that an on-line verification process, where states can obtain and provide data to allow ETCs real-time access to a database of low-income assistance program participants or income reports, could be a quick,

¹³⁸ 47 C.F.R. § 54.409(c); *see also Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved And Underserved Areas, Including Tribal and Insular Areas; Commonwealth of Northern Mariana Islands*, CC Docket No. 96-45, Twenty-Fifth Order On Reconsideration, Report and Order, Order, and Further Notice Of Proposed Rulemaking, 18 FCC Rcd 10958, 10970-71, para. 24 (2003).

¹³⁹ *See Recommended Decision*, 18 FCC Rcd at 6610, para. 43. *See* Appendix J for a description of how ETCs may draw a statistically valid random sample.

¹⁴⁰ *See infra* Appendix J.

¹⁴¹ *See supra* paras. 30-31. ETCs should make arrangements to allow consumers to present their income documentation at local ETC stores or offices.

¹⁴² *See* 47 C.F.R. §§ 54.407(c), 54.413(c). *See also infra* paras. 37-38.

¹⁴³ *See Recommended Decision*, 18 FCC Rcd at 6609, para. 42.

¹⁴⁴ *See, e.g.* BellSouth Comments at 5-6; NCLC Reply Comments at 4; Commissioner Wilson PaPUC Reply Comments at 8; Rural Iowa Independent Telephone Association at 1-2.

easy, and accurate solution. Nevertheless, we decline to require states to adopt on-line verification at this time. Despite the benefits of on-line verification, we recognize, as did the Joint Board, that current financial constraints may make it difficult for some states to implement on-line verification.

D. Implementation and Recordkeeping

37. States and ETCs will be required to implement measures to certify income of consumers before enrollment in Lifeline/Link-Up when income is the consumer's basis for Lifeline/Link-Up eligibility, and to implement measures to verify continued eligibility for Lifeline/Link-Up under any criteria within one year from the publication of this Order in the Federal Register. Given the flexibility afforded states to develop certification and verification procedures, we conclude that one year should provide more than enough time to come into full compliance with the rules we adopt today. Indeed, we encourage states and ETCs to implement certification and verification measures as quickly as possible, but no later than one year. For federal default states, level of income will not be acceptable as a means of qualifying for Lifeline/Link-Up until certification procedures are in place.¹⁴⁵

38. In addition, we specify that ETCs in federal default states must retain certifications regarding a consumer's eligibility for Lifeline for as long as the consumer receives Lifeline service from that ETC or until the ETC is audited by the Administrator. Section 54.409 of the Commission's rules requires ETCs to obtain a self-certification, under penalty of perjury, from a consumer that he or she receives benefits from one of the qualifying means-tested programs.¹⁴⁶ However, this rule does not specify how long ETCs must retain consumer self-certifications regarding eligibility. In this Order, we clarify our rules to require ETCs in federal default states to retain consumers' self-certifications of eligibility, including self-certifications that income documentation accurately reflects household income,¹⁴⁷ for as long as the consumer receives Lifeline service from that ETC or until the ETC is audited by the Administrator. This requirement will strengthen the Commission's ability to ensure program integrity without unduly burdening ETCs. For example, requiring an ETC to retain a single certification document per consumer will allow the Administrator to confirm in any audit that a consumer was properly enrolled in Lifeline, regardless of when he or she was enrolled.

39. Moreover, we codify the requirement that all ETCs must maintain records to document compliance with all Commission and state requirements governing the Lifeline/Link-Up programs and provide that documentation to the Commission or Administrator upon request. These records could include, for example, self-certifications verifying consumers' continued eligibility, documents demonstrating that ETCs have passed through the appropriate discounts to qualifying consumers, proof of advertising of Lifeline/Link-Up service, and billing records for Lifeline customers. All ETCs must retain such documentation for the three full preceding calendar years, *e.g.*, in December 2004, an ETC would maintain records for calendar years 2001-

¹⁴⁵ See *supra* paras 29-31, 32.

¹⁴⁶ See 47 C.F.R. § 54.409(d), as modified herein.

¹⁴⁷ See *supra* para. 32.

2003, but in January 2005, that ETC would only maintain records for calendar years 2002-2004.¹⁴⁸

40. Finally, we clarify the recordkeeping obligations of non-ETC resellers that purchase Lifeline-discounted wholesale services from ETCs to offer discounted services to low-income consumers. In such instances, the ETC would have no information regarding the eligibility of the low-income consumer. Accordingly, in these circumstances, ETCs must obtain certifications from the non-ETC reseller that it is complying with the Commission's Lifeline/Link-Up requirements.¹⁴⁹ Moreover, non-ETC resellers providing discounted services to low-income customers must comply with the applicable federal or state Lifeline/Link-Up requirements, including certification and verification procedures. Thus, such non-ETC resellers would be required to retain the required documentation to demonstrate that they are providing discounted services only to qualifying low-income consumers for the above-specified periods.

E. Outreach

1. Background

41. In the *NPRM*, we sought comment on whether the Commission should provide outreach guidelines for the Lifeline/Link-Up program to target more effectively low-income consumers.¹⁵⁰ Currently, there are no specific federal outreach guidelines. ETCs are, however, required to publicize the availability of Lifeline/Link-Up in a manner reasonably designed to reach those likely to qualify for the service.¹⁵¹

42. Effective outreach programs have been shown to improve Lifeline/Link-Up participation. According to an August 2000 report by the Telecommunications Industries Analysis Project, the Lifeline/Link-Up take rate almost tripled from 13.1% to 39.6% when states implemented outreach initiatives designed to increase telephone penetration and participation.¹⁵² For example, Maine, a state with an aggressive outreach program, which includes coordinating with social service agencies and sending flyers and personal letters to eligible customers, reports that its penetration rate among low-income households increased from 90.5% in March 1997 to 96.5% in March 2002.¹⁵³

43. In July 2002, the Commission's Consumer and Governmental Affairs Bureau (CGB)

¹⁴⁸ As described in *supra* para. 38, however, self-certifications of eligibility must be retained for as long as the consumer receives Lifeline service from the ETC or until the ETC is audited by the Administrator.

¹⁴⁹ In the event the Commission or Administrator finds an irregularity in the non-ETC reseller's records, the Administrator may adjust the ETC's low-income support payments.

¹⁵⁰ See *NPRM*, 18 FCC Rcd at 11628, para. 1.

¹⁵¹ See 47 C.F.R. §§ 54.405(b), 54.411(d). See also *Twelfth Report and Order*, 15 FCC Rcd at 12250, para. 78 (amending sections 54.405 and 54.411 of the Commission's rules).

¹⁵² Carol Weinhus, Tom Wilson, Gordon Calaway, et al., *Telecommunications Industries Analysis Project, Calculations and Sources for Closing the Gap: Universal Service for Low-Income Households*, August 1, 2000.

¹⁵³ *Telephone Penetration Report* at table 4 (Ind. Anal. and Tech. Div. rel. May 2003), available at <http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/pntris02.pdf>.

announced the kick-off of "Get Connected-Afford-A-Phone," a national campaign designed to educate consumers, including tribal consumers, about the Lifeline/Link-Up program.¹⁵⁴ CGB also engages in targeted outreach to tribal populations for certain federal programs, such as the availability of discounts for obtaining wireless licenses on tribal lands, in addition to Lifeline/Link-Up benefits. In the *Recommended Decision*, the Joint Board recommended that the Commission provide outreach guidelines to states and carriers to improve Lifeline/Link-Up subscribership.¹⁵⁵

2. Discussion

44. We agree with the Joint Board that more vigorous outreach efforts could improve Lifeline/Link-Up subscribership and adopt the Joint Board's recommendation to provide outreach guidelines to states and carriers.¹⁵⁶ We agree that we should not require specific outreach procedures, but should instead provide guidelines for states and carriers so that they can adopt their own specific standards and engage in outreach as they see fit.¹⁵⁷ Commenters were supportive of the proposed outreach guidelines, outlined in the *Recommended Decision* and detailed below.¹⁵⁸ We believe that encouraging states to establish partnerships with other state agencies and telephone companies will maximize public awareness and participation in the Lifeline/Link-Up program. We do not believe it is necessary at this time to prescribe specific outreach procedures.¹⁵⁹ Instead, we set forth these guidelines in order to provide states and carriers with examples of how to reach those likely to qualify. States and carriers will still have the flexibility to determine the most appropriate outreach mechanisms for their consumers, as long as they are reasonably designed to reach those likely to qualify for Lifeline/Link-Up.¹⁶⁰

45. Accordingly, we adopt the following outreach guidelines recommended by the Joint Board: (1) states and carriers should utilize outreach materials and methods designed to reach households that do not currently have telephone service; (2) states and carriers should develop outreach advertising that can be read or accessed by any sizeable non-English speaking populations within a carrier's service area; and (3) states and carriers should coordinate their outreach efforts with governmental agencies/tribes that administer any of the relevant government assistance programs. These guidelines are described in detail in the paragraphs

¹⁵⁴ *FCC Kicks Off Campaign To Educate Consumers About Phone Service Programs For Low-Income Consumers, Lifeline and Link-Up Programs Provide Discounted Phone Service To Eligible Consumers*, News Release, July 22, 2002.

¹⁵⁵ See *Recommended Decision*, 18 FCC Rcd at 6612, para. 50.

¹⁵⁶ See *Recommended Decision*, 18 FCC Rcd at 6611, para. 50.

¹⁵⁷ See *Recommended Decision*, 18 FCC Rcd at 6611, para. 50.

¹⁵⁸ See Bell South Comments at 7-9, Reply Comments at 3; Consumer Coalition Comments at 1-3; Florida PSC Comments at 7; NASUCA Reply Comments at 25-27; OH PUC Comments at 2-3, 7; OK Corporation Commission Comments at 4-5; PaPUC Reply Comments at 9-10; Commissioner Wilson PaPUC Reply Comments at 12; Tribal Telecom Outreach Comments at 1; USCCB Comments at 10-11; Verizon Reply Comments at 11-12.

¹⁵⁹ But see NCLC Comments at 8-10; TX Legal Services Center Comments at 1.

¹⁶⁰ See 47 C.F.R. § 54.405(b).

below. An appendix compiling state practices was included in the *Recommended Decision* and is reproduced in this document.¹⁶¹ State practices include establishing marketing boards to devise outreach materials, providing multi-lingual customer support, and implementing innovative tribal outreach practices.

46. The first recommended guideline is that states and carriers should utilize outreach materials and methods designed to reach households that do not currently have telephone service.¹⁶² States or carriers may wish to send regular mailings to eligible households in the form of letters or brochures.¹⁶³ Posters could be placed in locations where low-income individuals are likely to visit, such as shelters, soup kitchens, public assistance agencies, and on public transportation. Multi-media outreach approaches could be utilized such as newspaper advertisements, articles in consumer newsletters, press releases, radio commercials, and radio and television public service announcements.¹⁶⁴ For low-income consumers that live in remote areas, including those living on tribal lands, traveling throughout an area or setting up an information booth at a central location may be more suitable outreach methods. States and carriers should ensure that outreach materials and methods accommodate low-income individuals with sight, hearing, and speech disabilities by producing brochures, mailings, and posters in Braille. We also encourage carriers to provide customer service to disabled program participants on an equal basis by using telecommunications relay services (TRS), text telephone (TTY), and speech-to-speech (STS) services.¹⁶⁵ States and carriers should also take into consideration that some low-income consumers may be illiterate or functionally illiterate, and therefore should consider how to supplement outreach materials and methods to accommodate those individuals.¹⁶⁶ States and carriers may post outreach material on the Internet to provide general information; however, the Internet should not be relied on as the sole or primary means of Lifeline/Link-Up outreach.¹⁶⁷ Similarly, although advertising Lifeline/Link-Up in carriers' telephone books may be effective in reaching some low-income individuals, it will not be

¹⁶¹ See *infra* Appendix E; see generally *Recommended Decision*, Appendix E.

¹⁶² Accord Florida PSC Comments at 7; OH PUC Comments at 2-3.

¹⁶³ Bell South states that as part of the CALLS group, it has developed a brochure, available through the Federal Consumer Information Center entitled "A Smart Consumer's Guide to Telephone Service" that includes information for consumers on how to obtain Lifeline information on a state and telephone company-specific basis (e.g., amount of discount, eligibility, program restrictions, application process). See Bell South Comments at 8-9.

¹⁶⁴ Accord OK Corporation Commission Comments at 4.

¹⁶⁵ TRS are "telephone transmission services" that enable individuals with a hearing or speech disability to communicate "by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual" without a hearing or speech disability to communicate over wire or radio. Examples of TRS include TTY and STS services. 47 C.F.R. § 64.601(7). TTY is "a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system." 47 C.F.R. § 64.601(8). STS "allows people with speech disabilities to communicate with voice telephone users through the use of specially trained [communications assistants (CAs)] who understand the speech patterns of persons with disabilities and can repeat the words spoken by that person." 47 C.F.R. § 64.601(10).

¹⁶⁶ Accord OK Corporation Commission Comments at 5.

¹⁶⁷ Useful website information may include the amount a consumer can save on their telephone bill, eligibility requirements, program restrictions, and instructions on how to apply for Lifeline/Link-Up. We note that a lot of this information is currently available at <<http://www.lifelinesupport.org>>.

effective for those without established phone service because carriers only distribute telephone books after phone service is established. States and carriers should also not rely on hotlines as a primary outreach method because many low-income individuals may not have access to a telephone from which to initiate an inquiry on Lifeline/Link-Up benefits.

47. The second recommended guideline is that states and carriers should develop outreach advertising that can be read or accessed by any sizeable non-English speaking populations within the carrier's service area. For example, many of the suggestions in the above paragraph can be implemented in languages other than English, including mailings, print advertisements, radio and television commercials, and posters. States with a large ethnically diverse population should have a toll-free call center to answer questions about Lifeline/Link-Up in the low-income population's native languages.¹⁶⁸ Similarly, enrollment applications should be made available in other languages.

48. The third recommended guideline is that states and carriers should coordinate their outreach efforts with governmental agencies that administer any of the relevant government assistance programs.¹⁶⁹ Coordination should also include cooperative outreach efforts with state commissions, tribal organizations, carriers, social service agencies, community centers, nursing homes, public schools, and private organizations that may serve low-income individuals, such as American Association for Retired Persons and the United Way.¹⁷⁰ Cooperative outreach among those most likely to have influential contact with low-income individuals will help to target messages about Lifeline/Link-Up to the low-income community. For example, state agencies that conduct outreach efforts for a state's "earned income tax credit," an income tax credit for low-income working individuals and families, could conduct simultaneous outreach efforts for Lifeline/Link-Up. Establishing a marketing or consumer advisory board with state, carrier, non-profit and consumer representatives may also be an effective way of developing outreach materials.¹⁷¹ States and carriers could also issue a joint report to the Commission as to their outreach practices.

49. We also encourage states to utilize USAC as a resource for outreach to states and carriers, similar to USAC's outreach efforts with regard to the Rural Health Care and Schools and Libraries programs. USAC currently engages in outreach for the Lifeline/Link-Up program through its website, <www.lifelinesupport.org>, which has information about state Lifeline/Link-Up programs, eligibility criteria, and information for carriers. USAC also speaks about Lifeline/Link-Up at public events such as the National Association of Regulatory Utility Commissioners (NARUC) conference and the National Congress of American Indians, where USAC staff also meets with tribal members and managers of tribally-owned telephone

¹⁶⁸ See *Recommended Decision*, 18 FCC Rcd at 6628, Appendix E

¹⁶⁹ *Accord Bell South Comments* at 7; *Florida PSC Comments* at 7.

¹⁷⁰ *Accord Consumer Coalition Comments* at 1 (citing as an example SBC's partnership with community organizations that includes monthly meetings, Lifeline training sessions, and a system of collecting and receiving applications including grants to cover expenses); *Tribal Telecom Outreach Comments* at 1 (supporting coordination with tribal organizations that are conducting similar efforts).

¹⁷¹ *Accord OH PUC Comments* at 7.

companies. USAC distributes letters and emails to consumer groups, tribal leaders, and social service organizations to publicize the availability of Lifeline/Link-Up and also sends letters to ETCs to remind them of their outreach obligations. USAC also frequently takes phone calls from consumers and others with questions about the Lifeline/Link-Up program. Finally, we agree with the Joint Board that in addition to USAC's current outreach efforts for Lifeline/Link-Up, USAC should assist in additional outreach efforts for Lifeline/Link-Up similar to what it currently does for the Rural Health Care and Schools and Libraries Programs.¹⁷²

F. Other Issues

1. Voluntary Survey

50. We agree with the Joint Board that gathering data and information about state Lifeline/Link-Up programs through a voluntary survey will enable the Commission to make more informed decisions in any future Lifeline/Link-Up orders.¹⁷³ In the *NPRM*, we sought comment on the survey's format and questions to ask.¹⁷⁴

51. To obtain feedback on the success of the modified Lifeline/Link-Up program, we adopt a voluntary information collection from the states. This voluntary survey form, as contained in Appendix C, asks states to provide information about the eligibility criteria, certification and verification procedures, and outreach efforts implemented as a result of the changes we adopt in this Order.¹⁷⁵ Collection of this survey will assist us in learning about the reasons for variations in participation rates between and among states, and as a result could help shape Commission policy in the future.¹⁷⁶ We agree with commenters that submission of this survey should be voluntary for states with the first survey due one year following the effective date of this Order.¹⁷⁷ We direct USAC to mail the voluntary survey form to states. We have expanded on some of the Joint Board's recommended questions and added a few questions to the survey, at the suggestion of NCLC.¹⁷⁸

2. Unpaid Toll Charges

52. We adopt the Joint Board's recommendation to encourage states to consider implementing rules that require ETCs to offer Lifeline service to consumers who may have been

¹⁷² See *Recommended Decision*, 18 FCC Rcd at 6615, para. 56; see also BellSouth Reply Comments at 3 (supporting additional USAC involvement in Lifeline/Link-Up outreach).

¹⁷³ See *Recommended Decision*, 18 FCC Rcd at 6595, para. 10.

¹⁷⁴ See *NPRM*, 18 FCC Rcd at 11628-29, para. 2.

¹⁷⁵ See *infra* Appendix C. We note that some of the questions contained in the survey may refer to information that we may already have access to. For example, state-specific eligibility criteria are available on USAC's website. We believe, however, that responses to the survey's questions will assist us in developing a complete picture of a state's Lifeline/Link-Up program.

¹⁷⁶ See NCLC Comments at 11.

¹⁷⁷ See BellSouth Comments at 10; NCLC Comments at 10. We disagree with NASUCA that submission should be required for states. See NASUCA Reply Comments at 7.

¹⁷⁸ See NCLC Comments at 12-13; Appendix C.

previously disconnected for unpaid toll charges.¹⁷⁹ We acknowledge that ETCs often prohibit consumers who have prior outstanding balances for local and/or long distance services, but who otherwise qualify for Lifeline/Link-Up, from signing up for local telephone service.¹⁸⁰ As a result, these outstanding balances stand as a barrier to expanding subscribership among low-income consumers. However, the Fifth Circuit found that the Commission lacked jurisdiction to prohibit ETCs from disconnecting Lifeline customers for failure to pay toll charges.¹⁸¹ In light of the Fifth Circuit ruling, we adopt the Joint Board's recommendation and take no action on disconnection requirements at this time. We encourage states, however, to consider ways to address this issue.

3. Vertical Services

53. We adopt the Joint Board's recommendation not to adopt rules prohibiting Lifeline/Link-Up customers from purchasing vertical services, such as Caller ID, Call Waiting, and Three-way Calling.¹⁸² Like the Joint Board, we believe any restriction on the purchase of vertical services may discourage qualified consumers from enrolling and may serve as a barrier to participation in the program.¹⁸³ No commenter supported prohibiting Lifeline/Link-Up subscribers from purchasing vertical services. However, some expressed concern that ETCs may be marketing vertical services to low-income customers who may be unable to afford these features.¹⁸⁴ While we understand these concerns, we do not prohibit the marketing of vertical services to Lifeline/Link-Up customers at this time.

4. Support for Non-ETCs

54. We agree with the Joint Board that we should decline to establish rules that would provide Lifeline/Link-Up support directly to carriers that are not ETCs.¹⁸⁵ Contrary to AT&T's assertion, establishing such rules would be inconsistent with section 254(e), which states that only ETCs may receive universal service support.¹⁸⁶ Extending Lifeline/Link-Up universal service support to carriers that do not satisfy the requirements for designation as an ETC could

¹⁷⁹ In its *Recommended Decision*, the Joint Board noted that Florida's Lifeline/Link-Up program prohibits disconnection of Lifeline service when the subscriber has not paid toll charges. *See Recommended Decision*, 18 FCC Rcd at 6616, para. 59. We note that consumers who have been disconnected from Lifeline service due to unpaid toll charges would not be able to receive Link-Up support again unless the consumer has moved to another residence. *See* 47 C.F.R. § 54.411(c).

¹⁸⁰ *See, e.g.*, NASUCA Reply Comments at 27; USCCB Comments at 11-13; *see also* 1997 *Universal Service Order*, 12 FCC Rcd at 8793, para. 28 (stating that studies indicate that disconnection for non-payment of toll charges is a significant cause of low subscribership among low-income consumers).

¹⁸¹ *TOPUC v. FCC*, 183 F.3d 393, 421-25 (5th Cir. 1999).

¹⁸² *Recommended Decision*, 18 FCC Rcd at 6618, para. 62.

¹⁸³ *See id.*

¹⁸⁴ *See, e.g.*, NASUCA Reply Comments at 29-30.

¹⁸⁵ *See Recommended Decision*, 18 FCC Rcd at 6617-18, para. 61.

¹⁸⁶ 47 U.S.C. § 254(e). We note that section 254(h) provides exceptions to that requirement under the schools and libraries and rural health care programs. *See* 47 U.S.C. § 254(h).

also serve as a disincentive for other carriers to comply with their ETC obligations.

5. Minor Rule Changes

55. In the *NPRM*, the Commission identified various proposals to clarify and streamline our rules. Specifically, the Commission proposed to modify Part 54 to reference a provision in section 52.33(a)(1)(i)(C) of the Commission's rules that exempts Lifeline Assistance Program customers from monthly number-portability charges.¹⁸⁷ The Commission also solicited comment on whether section 54.401(c) should be amended by replacing "toll blocking" with "toll limitation" to accurately reflect the Commission's determination in the 1997 *Universal Service Order* that ETCs may not impose service deposit requirements on Lifeline customers who accept toll limitation services.¹⁸⁸ Section 54.401(c) incorrectly limits the service deposit prohibition to customers who accept toll blocking.¹⁸⁹ Finally, the Commission sought comment on whether to delete Subpart G of Part 36, which states that "[t]his subpart shall be effective through December 31, 1997. On January 1, 1998, Lifeline Connection Assistance shall be provided in accordance with part 54, subpart E of this chapter."¹⁹⁰ We believe these changes will clarify and streamline our Lifeline/Link-Up rules. Therefore, we adopt these minor rule changes as proposed in the *NPRM*.

IV. FURTHER NOTICE OF PROPOSED RULEMAKING

A. Income-based Criterion

56. We seek comment on whether the income-based criterion in the federal default eligibility criteria should be increased to 150% of the FPG to make phone service affordable to more low-income individuals and families.¹⁹¹ Although most commenters supported adding an income-based criterion, a number of those commenters supported a higher income-based standard than the interim measure that we adopt above.¹⁹² Specifically, those commenters preferred that a consumer whose household income is at or below 150% of the FPG should be eligible for Lifeline/Link-Up support.¹⁹³ Commenters argue that adding a higher FPG level would bring Lifeline/Link-Up support in line with LIHEAP, a current qualifying Lifeline/Link-

¹⁸⁷ See *NPRM*, 18 FCC Rcd at 11629, para. 3. BellSouth specifically supported the proposal to add the exemption from the number-portability charge, currently codified in section 52.33(a)(1)(i)(C), to Part 54. See BellSouth Comments at 10.

¹⁸⁸ See *NPRM*, 18 FCC Rcd at 11629, para. 3.

¹⁸⁹ See 47 C.F.R. § 54.401(c).

¹⁹⁰ *NPRM*, 18 FCC Rcd at 11629, para. 3.

¹⁹¹ See *infra* Appendix F.

¹⁹² See Acorn Comments at 4; Consumer Coalition Comments at 4; NASUCA Reply Comments at 5, 9; OH PUC Comments at 9; Commissioner Wilson PaPUC Reply Comments at 2-3; TOPC Comments at 5-6; USCCB Comments at 3-4, 6.

¹⁹³ See *id.*

Up program that uses an income-based standard of 150% as an eligibility criterion.¹⁹⁴ Commenters also point out the inequity that currently exists between a hypothetical low-income consumer who does not participate in LIHEAP and therefore does not qualify for Lifeline, and another hypothetical low-income consumer with the same income who participates in LIHEAP and Lifeline.¹⁹⁵ In particular, low-income consumers are not eligible for LIHEAP if they rent a house or apartment with utilities included, yet they may have essentially the same income as consumers who pay for utilities separately. It is possible that a non-trivial number of low-income consumers may fall into this category.¹⁹⁶ Furthermore, adding a higher FPG level may also help to increase participation among low-income consumers who do not currently qualify for Lifeline/Link-Up because they are on waiting lists for Section 8 housing, are not eligible for SSI because they are not elderly or disabled, have been cut off from Food Stamps because of work requirements, or do not qualify for Medicaid due to complex eligibility requirements.¹⁹⁷ Adding a higher FPG level could also help respond to the decrease in participation rates prevalent in at least one current Lifeline/Link-Up qualifying program and one adopted in this Order, Food Stamps and TANF, respectively.¹⁹⁸

57. Applying the same methodology used to analyze the 135% of the FPG income-based criterion, our staff analysis estimates that broadening the income-based criterion to 150% of the FPG may only have a minimal impact on national telephone penetration rates, but could add many new Lifeline subscribers; potentially resulting in an additional \$200 million increase in

¹⁹⁴ See <<http://www.acf.hhs.gov/programs/liheap/eligible.htm>> (explaining that states may not set income level below 110% of FPG); Consumer Coalition Comments at 2; Commissioner Wilson PaPUC Reply Comments at 2-3; TOPC Comments at 5-6; USSCB Comments at 4-5.

¹⁹⁵ See, e.g., NCLC Comments at 6.

¹⁹⁶ Our staff analysis estimates that there could be up to 150,000 households that have incomes at 1.50 of the FPG, but are not eligible for LIHEAP. This estimate assumes that all states will implement the federal default criteria. According to the CPSH data, in 2002, there were about 685,000 households that met the following three conditions: 1) they rented, not owned their dwelling; 2) they were between 1.35 and 1.50 of the FPG; and 3) they were not otherwise eligible for Lifeline under the default rules established in this Order. Presumably, these households would be eligible for LIHEAP, except for those in apartments where utilities are included in the rent. According to Consumer Expenditure Survey data, about 20% of all renting households pay nothing for electricity. See Table 1701 of the Consumer Expenditure Interview Survey, 2002. Presumably, most of these households have electricity included in their rent. Multiplying 685,000 households by .20 yields 137,000 households. This amount is then multiplied by 1.077 to adjust for household formation between 2002 and 2005 (see Table 1.B of Appendix K). Multiplying 137,000 * 1.077 = 147,549. This number rounds to 150,000 households.

¹⁹⁷ See NCLC Comments at 6. In addition, one commenter notes that this expanded income-based criterion might allow low-income legal immigrants who may no longer be eligible to participate in certain Lifeline/Link-Up qualifying programs due to restrictions imposed by PROWRA, to participate in Lifeline/Link-Up. See NFFN Comments at 7, 14.

¹⁹⁸ Food Stamps enrollment fell from 25.5 million recipients in FY 1996 to 21.3 million recipients in FY 2003. See <<http://www.fns.usda.gov/pd/fssummar.htm>>. TANF enrollment fell from 12.6 million recipients in FY 1996 to 5.1 million recipients in FY 2002. See HHS/ACF/Office of Family Assistance/Division of Data Collection and Analysis, ACF-3637, Statistical Report on Recipients under Public Assistance (OMB Approval No. 0970-008), ACF-198, Emergency TANF Data Report (0970-0164), ACF-199, TANF Data Report (0970-0199); <<http://www.acf.dhhs.gov/news/stats/2002tanfrecipients.htm>>. See also *supra* paras. 14-15.

Lifeline expenditures over the levels predicted for implementation of a 135% standard.¹⁹⁹ We seek comment on this analysis. Commenters should discuss the staff analysis contained in Appendix K, the advantages and disadvantages of a broader income-based standard and the potential burden to the fund. When considering their response, commenters should refer to Appendix F for estimated income requirements for various sizes of households at or below 150% of the FPG.²⁰⁰

B. Lifeline Advertising Requirements

58. Although we adopt the Joint Board's recommendation to issue outreach *guidelines*, rather than specific *requirements*,²⁰¹ on further reflection, we think it would be beneficial to explore whether adoption of rules governing the advertisement of the Lifeline/Link-Up program would strengthen the operation of these programs.²⁰² For instance, we seek comment on whether the Commission should require ETCs to print and distribute posters, flyers, or other print media advertising Lifeline/Link-Up to state, federal, or tribal public assistance agencies in their service areas. If a percentage of the population in a given area speaks a language other than English, should ETCs be required to distribute materials in that language? If so, what should the benchmark percentage be?

V. PROCEDURAL MATTERS

A. Regulatory Flexibility Analysis

59. As required by the Regulatory Flexibility Act, 5 U.S.C. § 604, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) for the *Report and Order*, set forth at Appendix H. The Commission has also prepared an Initial Regulatory Flexibility Analysis (IRFA) for the *Further Notice of Proposed Rulemaking (Further Notice)*, set forth at Appendix I. Comments on the FRFA and IRFA should be labeled as IRFA or FRFA Comments, and should be submitted pursuant to the filing dates and procedures set forth in paragraphs 61-68, *infra*.

B. Paperwork Reduction Act Analysis

60. This *Report and Order and Further Notice of Proposed Rulemaking (Report and Order)* contains either a proposed or modified information collection. As part of the continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this *Report and Order*, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.* Public and agency comments are due at the same time as other comments on this *Report and Order*;

¹⁹⁹ See *infra* Appendix K at Table 3.B for 1.50 PGC and Table 3.B for 1.35 PGC.; see also Table 2.H (estimating no increased telephone penetration rate with a 1.50 PGC).

²⁰⁰ See *infra* Appendix F.

²⁰¹ See *infra* at para. 45.

²⁰² Currently, sections 54.405 and 54.411 of the Commission's rules require all ETCs to publicize the availability of Lifeline and Link-Up in a manner reasonably designed to reach those likely to qualify for the service. 47 C.F.R. §§ 54.405(b), 54.411(d).

OMB comments are due 60 days from the date of publication of this *Report and Order* in the Federal Register. Comments should address: 1) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; 2) the accuracy of the Commission's burden estimates; 3) ways to enhance the quality, utility, and clarity of the information collected; and 4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

C. Filing Procedures

61. Pursuant to sections 1.415 and 1.419 of the Commission's rules,²⁰³ interested parties may file comments not later than 60 days after publication of the *Report and Order* in the Federal Register and may file reply comments not later than 105 days after publication of the *Report and Order* in the Federal Register. In order to facilitate review of comments and reply comments, parties should include the name of the filing party and the date of the filing on all pleadings. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.²⁰⁴

62. Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/cgb/ecfs>>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to <ecfs@fcc.gov>, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply. Or you may obtain a copy of the ASCII Electronic Transmittal Form (FORM-ET) at <www.fcc.gov/e-file/email.html>.

63. Parties that choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at a new location in downtown Washington, DC. The address is 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location will be 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

64. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

²⁰³ 47 C.F.R. §§ 1.415, 1.419.

²⁰⁴ See *Electronic Filing of Documents in Rulemaking Proceedings*, 13 FCC Rcd 11322, 11326 (1998).

If you are sending this type of document or using this delivery method...	It should be addressed for delivery to...
Hand-delivered or messenger-delivered paper filings for the Commission's Secretary	236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (8:00 to 7:00 p.m.)
Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail)	9300 East Hampton Drive, Capitol Heights, MD 20743 (8:00 a.m. to 5:30 p.m.)
United States Postal Service first-class mail, Express Mail, and Priority Mail	445 12th Street, SW Washington, DC 20554

65. Parties who choose to file by paper should also submit their comments on diskette. These diskettes, plus one paper copy, should be submitted to: Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications, at the filing window at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, in this case WC Docket No. 03-109, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy - Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CYB402, Washington, D.C. 20554 (see alternative addresses above for delivery by hand or messenger).

66. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Qualex International, Portals II, 445 12th Street S.W., CY-B402, Washington, D.C. 20554 (see alternative addresses above for delivery by hand or messenger) (telephone 202-863-2893; facsimile 202-863-2898) or via e-mail at qualexint@aol.com.

67. Written comments by the public on the proposed and/or modified information collections are due on the same day as comments on the *Report and Order*, i.e., on or before 60 days after publication of the *Report and Order* in the Federal Register. Written comments must be submitted by OMB on the proposed and/or modified information collections on or before 60 days after publication of the *Report and Order* in the Federal Register. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, S.W., Washington, D.C. 20554, or via the Internet to jbherman@fcc.gov, and to Jeanette Thornton, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, N.W., Washington, D.C. 20503 or via the Internet to JThornto@omb.eop.gov.

68. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW,

Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com.

D. Further Information

69. Alternative formats (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 voice, (202) 418-7365 TTY, or bmillin@fcc.gov. This *Report and Order* can also be downloaded in Microsoft Word and ASCII formats at http://www.fcc.gov/wcb/universal_service/lowincome.html.

70. For further information, contact Shannon Lipp or Karen Franklin at (202) 418-7400 in the Telecommunications Access Policy Division, Wireline Competition Bureau.

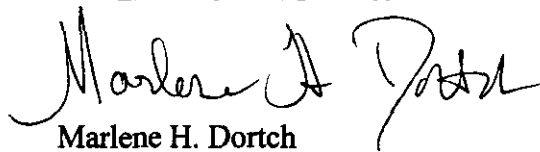
VI. ORDERING CLAUSES

71. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1, 4(i), 201-205, 214, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 1, 4(i), 201-205, 214, 254, 403, this Order IS ADOPTED.

72. IT IS FURTHER ORDERED that Part 54 of the Commission's rules, 47 C.F.R. Part 54, IS AMENDED as set forth in Appendix A attached hereto, effective thirty (30) days after publication of this Order in the Federal Register, unless otherwise indicated herein.

73. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1, 4(i), 201-205, 214, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 1, 4(i), 201-205, 214, 254, 403, this *Further Notice of Proposed Rulemaking* IS ADOPTED.

FEDERAL COMMUNICATIONS COMMISSION


Marlene H. Dortch
Secretary